IN THE HIGH COURT OF UTTARANCHAL AT NAINITAL

WRIT PETITION NO. 897 (MS) OF 2006

P.K. Agarwal,
Executive Engineer (Distribution),
Uttaranchal Power Corporation Ltd. (Rudrapur),
Distt.-Udham Singh Nagar. .....Petitioner.

Versus

1. Addl. District Judge (Ist), Rudrapur, Udham Singh Nagar.
2. Shri Bankey Bihari Ispat Pvt. Ltd., Village Kishanpur, Kichha Road, Kichha, Tehsil-Kichha, Distt.-Udham Singh Nagar, through General Manager, Sri Arjun Gupta, S/o Sri N.D. Gupta, R/o D-1, D-2, Civil Line, Rudrapur, Tehsil- Kichha, Distt. Udham Singh Nagar.
3. Uttaranchal Power Corporation Ltd., 3G Bhawan Kanwali Road, Dehradun, through its Chairman.
4. General Manager (Distribution), Uttaranchal Power Corporation Ltd, Kathgodam, Distt. Nainital.
5. Sub Divisional Officer,
   Uttanrahcal Power Corporation Ltd. (Kichha),
   Distt. Udham Singh Nagar.
6. B.T.C. Industries Pvt. Ltd.
   Village Kishanpur, Tehsil Kichha,
   Distt. Udham Singh Nagar,
   Through Director Navneet Agarwal,
   S/o Sri Yashoda Nandan,
   R/o New Mandi Gate Haldwani,
   District Nainital. .....Respondents.

Hon'ble Rajesh Tandon, J.

Heard Sri G.C. Kandpal, Advocate for the petitioner, Sri S.K. Mandal, Advocate for the respondent no. 2 and Sri B.D. Upadhyay, Advocate for the respondents no. 3 to 5.

A perusal of the order dated 20th March, 2006 passed by the appellate Court shows that the matter has been remanded to the trial Court for hearing afresh on the application for injunction 6-Ga fixing the date as 28th of March, 2006.

It is well settled that any findings on the injunction application is only for the purposes under Order 39 Rule 1 of the Code of Civil Procedure and the same shall not bind the parties while hearing the case on merits. Further since the injunction matter has not been finalized and the same has been sent back to the court below for deciding afresh, therefore, any findings recorded by the appellate court shall not be given effect to.

In view of the aforesaid, it will be open for the trial Court to decide the application 6-Ga ignoring the observations made by the appellate Court.

Subject to the aforesaid observation, writ petition is disposed of. No order as to costs.

(Rajesh Tandon, J.)

15.07.2006
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